UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,585	10/22/2001	Theodore D. Wugofski	450.256US2	4021

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER
VU, KIEU D

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>22 October 2001</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,7 and 12-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) <u>12-19</u> is/are allowed.

6) ☒ Claim(s) <u>1,7,12,13 and 20-29</u> is/are rejected.

7) ☒ Claim(s) <u>14-19</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>22 October 2001</u> is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>10/22/01</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This Action is responsive to Preliminary Amendment filed 10/22/01.

2.   Claims 1, 7, and 12-29 are pending.

3.   The IDS filed 10/22/01 has been considered. An initialed copy is attached

with this Action.

Drawings

4.   The drawing is objected since it contains unlabeled boxes. All unlabeled

boxes in Figure 3 should be labeled.

Double Patenting

5.   The nonstatutory double patenting rejection is based on a judicially

created doctrine grounded in public policy (a policy reflected in the statute) so as

to prevent the unjustified or improper timewise extension of the "right to exclude"

granted by a patent and to prevent possible harassment by multiple assignees.

See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re*

Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164

USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644

(CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may

be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent is shown to

be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may

sign a terminal disclaimer. A terminal disclaimer signed by the assignee must

fully comply with 37 CFR 3.73(b).

6.   Claims 12 and 13 are rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 5 and 6 of

U.S. Patent No. 6317143. Although the conflicting claims are not identical,

claims 12 and 13 of the instant application are anticipated by claims 5 and 6 of

US Patent No. 6317143, respectively.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1,7, 21-22, 24-25, and 29 are rejected under 35 U.S.C. 102(b) as

being anticipated by Ezekiel et al ("Ezekiel", USP 5625783)

Regarding claim 1, Ezekiel teaches a software module stored on a

machine readable medium for programming a graphical user interface (software

of the system, col 5, lines 23-36), responsive to functionality information supplied

or retrieved from an application or applet (new software components are added

to an existing program; col 3, lines 16-18), the software capable of modifying the

graphical user interface when a new application is launched (rebuilt menu; col 8,

lines 43-46; Fig. 5), wherein modifying the graphical user interface further

comprises adding new functionality of the new application or applet to the graphical user interface (construct a complete menu; col 8, lines 48-58) if the new functionality does not already exist in the graphical user interface (col 8, lines 37-48)

Regarding claim 7, Ezekiel teaches a shared graphical user interface (user interface menu; col 3, lines 11-13) capable of control of a plurality of computer applications or applets, the shared graphical user interface being defined and redefined as different applications or applets are launched (dynamically reconstruct user interface menu when a new window is selected, opened, or become active; col 3, lines 22-36), by receiving information from the applets or from the software designed to retrieve the functionality of the applications or applets (commands appropriate for current active window, col 4, lines 20-26), wherein redefining the shared the graphical user interface further comprises adding new functionality of the new applications or applets to the shared graphical user interface (recreates the menu bar, col 4, lines 20-26) if the new functionality does not already exist in the shared graphical user interface (col 8, lines 37-48; Fig. 5 and Fig. 7).

Regarding claims 21 and 29, Ezekiel teaches the new application is launched as a result of opening the new application (col. 3, lines 11-20).

Regarding claims 22 and 25, Ezekiel teaches registering the new application for the functionality when the functionality already exists in the graphical user interface (col 8, lines 2-11).

Regarding claim 24, Ezekiel teaches that the functionality of the application (menu of the previously selected window) and the new functionality of

the new application (add-on menu) are controllable by the graphical user

interface (col 8, lines 38-48).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 20 and 27-28 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ezekiel and Fujii (USP 6204842).

Regarding claims 20 and 28, Ezekiel does not teach that the new

application is launched as a result of navigating a web page. However, such

feature is known in the art as taught by Fujii. Fujii teaches a television system

that interacts with the Internet, the system comprises opening a web page

window (launching new application) as a result of navigating a web page (col. 2,

lines 54-65). It would have been obvious to one of ordinary skill in the art, having

the teaching of Ezekiel and Fujii before him at the time the invention was made,

to modify the interface reconstruction method taught by Ezekiel to include

opening new window as resulting of navigating a web page taught by Fujii with

the motivation being to enable user to access and use information obtained from

the Internet (Fujii, col 1, lines 7-13).

Regarding claim 27, Ezekiel does not teach the graphical user interface

allows access to an electric appliance. However, such feature is known in the art

as taught by Fujii. Fujii teaches a television system that accesses to a Set-Top

Box (see abstract and Fig. 1). It would have been obvious to one of ordinary skill

in the art, having the teaching of Ezekiel and Fujii before him at the time the

invention was made, to modify the interface reconstruction method taught by

Ezekiel to include accessing to a Set-Top Box taught by Fujii with the motivation

being to enable user to access and use information obtained from the Internet

(Fujii, col 1, lines 32-53).

11.   Claims 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ezekiel and Goldman et al (Goldman, USP 5644738).

        Regarding claim 26, Ezekiel does not teach comparing each functionality

of the applications with the functionality of the shared graphical user interface.

However, such feature is known in the art as taught by Goldman. Goldman

teaches a method using context identifiers for menu customization in window (col

1, lines 7-11), the method comprises comparing context list with the context

expression of the menu items to determine which menu items should be placed

in a window (col 7, lines 4-7). It would have been obvious to one of ordinary skill

in the art, having the teaching of Ezekiel and Goldman before him at the time the

invention was made, to modify the interface reconstruction method taught by

Ezekiel to include comparing context list with the context expression of the menu

items taught by Goldman with the motivation being to determine which menu

items should be placed in menus (Goldman, col 7, lines 4-7).

12.   Claims 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ezekiel and Matheny et al ("Matheny", USP 5517606).

        Regarding claim 23, Ezekiel does not teach causing the application to be

notified when a command is initiated to execute the functionality. However, such

feature is known in the art as taught by Matheny. Matheny teaches a method

supporting change notification in an object based operating system (abstract),

the method comprises sending notification to the application when a command is

invoked (col 1, lines 65-67). It would have been obvious to one of ordinary skill in

the art, having the teaching of Ezekiel and Matheny before him at the time the

invention was made, to modify the interface reconstruction method taught by

Ezekiel to include sending notification to the application when a command is

invoked taught by Matheny with the motivation being to enable all the

applications to obtain system changes (command initialization) (Matheny, col 1,

lines 28-35).

Allowable Subject Matter

13.   Claims 12-19 are allowed.

14.   The following is an examiner's statement of reasons for allowance:

Regarding claims 12, none of the available prior art of record teaches or

fairly suggests the defining a graphical user interface responsive to functionality

of a first application loaded onto the computer system, and redefining the

graphical user interface responsive functionality of a second application loaded

onto the computer system so as to control both the first and the second

applications with the graphical user interface, wherein redefining further

comprises adding functionality of the second application to the graphical user

interface if the functionality of the second application does not already in the

graphical user interface, in the specific combination as recited in claim 12.

Any comments considered necessary by applicant must be submitted no

later than the payment of the issue fee and, to avoid processing delays, should

preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

15.   The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach modifying graphical user interface which relates to the claimed invention.

16.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu whose telephone number is (703-605-1232). The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703- 308-3116).

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-872-9306

and / or:

(703)-746-5639   (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

07/14/04

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173